

ANOMALIES SUBCOMMITTEE PROPOSAL ON
CLASSIFICATION OF THEFT OFFENSES AMENDMENTS

JULY 27, 2016 3:30 P.M.

76-6-412 Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

- (a) as a second degree felony if the:
 - (i) value of the property or services is or exceeds \$5,000;
 - (ii) property stolen is a firearm or an operable motor vehicle;
 - ~~(iii) actor is armed with a dangerous weapon, as defined in Section 76-1-601, at the time of the theft;~~ or
 - (iii) ~~(iv)~~ property is stolen from the person of another;
- (b) as a third degree felony if:
 - (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
 - (ii) ~~the value of the property or services is or exceeds \$500 and~~ the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
 - (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
 - (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);
 - (iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or
 - (iv)
 - (A) the value of property or services is or exceeds \$500 but is less than \$1,500;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108;
 - (v) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 - (vi) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);
- (c) as a class A misdemeanor if:
 - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 - (ii)
 - (A) the value of property or services is less than \$500;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108; or
 - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or Section 76-6-413, or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.